

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

Waiver of Service of Summons

TO: Benjamin F. Johns, Counsel for Plaintiffs

I acknowledge receipt of your request that I waive service of a summons on behalf of The Bank of New York Mellon Corporation ("BNY"), a defendant in the action of *Hammond, et al. v. The Bank of New York Mellon Corp., et al.*, Docket No. 08-cv-6060 in the United States District Court for the Southern District of New York. I have also received a copy of the complaint in the action, and a means by which I can return the signed waiver to you without cost to me.

On behalf of BNY, I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that BNY be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

BNY will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against BNY if no answer or motion under Rule 12 is served upon you within 60 days after July 3, 2008 (the date on which this request for waiver of service was sent to BNY).

July 15, 2008
Date

Douglas C. Rennie

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant who, after being notified of an action and asked to waive service of summons, fails to do so will be required to bear the costs of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against the defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.